

§ 13.123 Submission by party to the investigation.

(a) During an investigation conducted under this subpart, a party may submit to the Presiding Officer—

(1) A list of witnesses to be called, specifying the subject matter of the expected testimony of each witness, and

(2) A list of exhibits to be considered for inclusion in the record.

(b) If the Presiding Officer determines that the testimony of a witness or the receipt of an exhibit in accordance with paragraph (a) of this section will be relevant, competent and material to the investigation, the Presiding Officer may subpoena the witness or use the exhibit during the investigation.

§ 13.125 Depositions.

Depositions for investigative purposes may be taken at the discretion of the Presiding Officer with reasonable notice to the party under investigation. Such depositions shall be taken before the Presiding Officer or other person authorized to administer oaths and designated by the Presiding Officer. The testimony shall be reduced to writing by the person taking the deposition, or under the direction of that person, and where possible shall then be subscribed by the deponent. Any person may be compelled to appear and testify and to produce physical and documentary evidence.

§ 13.127 Reports, decisions and orders.

The Presiding Officer shall issue a written report based on the record developed during the formal investigation, including a summary of principal conclusions. A summary of principal conclusions shall be prepared by the official who issued the order of investigation in every case which results in no action, or no action as to a particular party to the investigation. All such reports shall be furnished to the parties to the investigation and filed in the public docket. Insertion of the report in the Public Docket shall constitute “entering of record” and publication as prescribed by section 313(b) of the Federal Aviation Act.

§ 13.129 Post-investigation action.

A decision on whether to initiate subsequent action shall be made on the basis of the record developed during the formal investigation and any other information in the possession of the Administrator.

§ 13.131 Other procedures.

Any question concerning the scope or conduct of a formal investigation not covered in this subpart may be ruled on by the Presiding Officer on motion of the Presiding Officer, or on the motion of a party or a person testifying or producing evidence.

Subpart G—Rules of Practice in FAA Civil Penalty Actions

SOURCE: Amdt. 13-21, 55 FR 27575, July 3, 1990, unless otherwise noted.

§ 13.201 Applicability.

(a) This subpart applies to the following actions:

(1) A civil penalty action in which a complaint has been issued for an amount not exceeding \$50,000 for a violation arising under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), or a rule, regulation, or order issued thereunder.

(2) A civil penalty action in which a complaint has been issued for a violation arising under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1471, *et seq.*) and the Hazardous Materials Transportation Act (49 U.S.C. 1801 *et seq.*), or a rule, regulation, or order issued thereunder.

(b) This subpart applies only to proceedings initiated after September 7, 1988. All other cases, hearings, or other proceedings pending or in progress before September 7, 1988, are not affected by the rules in this subpart.

(c) Notwithstanding the provisions of paragraph (a) of this section, the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator:

(1) Which involves an amount in controversy in excess of \$50,000;

(2) Which is an *in rem* action or in which an *in rem* action based on the same violation has been brought;